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**Comments on Pacific Lumber Company's Draft Habitat Conservation Plan/ Sustained
Yield Plan/ Environmental Impact Report
(Permit numbers PRT-828950 and 1157)**

There are a number of critical problems and insufficiencies throughout Pacific Lumber's Draft Habitat Conservation Plan/ Sustained Yield Plan/ Environmental Impact Report (HCP). (Permit numbers PRT-828950 and 1157) The current draft is not compliant with the California Environmental Quality Act (CEQA), or the federal and state Endangered Species Acts (ESA) in letter or in spirit. The deviciveness shown in this HCP, along with over 40 violations of the California Forest Practice Rules during the creation and consideration of the HCP, is testament to wanton disregard that Palco has shown towards the vital water, soil, and biological resources of the State of California, The United States of America, and the citizens therein. The Plan, as written, must be denied by the responsible agencies, and an Incidental Take Permit should not be granted.

In order to bring the final EIR into compliance with applicable law, the following subjects and points need to be fully considered:

Illegality of Incidental Take Permit

After the Application for exemption under the Federal Endangered Species Act is initiated, the licensee must not irreversibly commit resources:

"After initiation of consultation required under subsection (a) (2) of this section, the Federal agency and the permit or license applicant shall not make any irreversible commitment of resources with respect to the agency action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures which would not violate subsection (a) (2) [including "the destruction or adverse modification of habitat"] of this section" (USCA Section 1536 (d))

In order to allow the exemption permit to be issued "the Secretary... shall determine that... the exemption applicant have... refrained from making any irreversible or irretrievable commitment of resources prohibited by subsection (d) of this section; or (B) deny the application for exemption..." (USCA Section 1536 (g) (3))

Within the time of review of this exemption permit, Palco has been cited over 40 times for violating the FPR regulations, many of which constituted an illegal take of endangered species. Felling old growth redwoods in 'critical' Marbled Murrelet conservation areas is absolutely an "irreversible or irretrievable commitment of resources." Driving through the 'critical' spawning habitat of Bear River with heavy machinery is an "irreversible or irretrievable commitment of resources." And the list goes on and on. (CDF issued violations during 1998)

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Palco has not operated in good faith, for this and for the reasons stated above must not be granted an exemption permit, or incidental take permit.

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Monitoring

It is thoughtful for Palco to volunteer to do their own monitoring, but quite frankly, this is a conflict of interest - as Palco stands to profit from not reporting degraded conditions. Palco's own monitoring should be second to the monitoring data of an independent consultant under the scrutiny of the public and watchdog groups. This comment is in light of Palco's regular disregard for regulations, which include over 40 violations of the California Forest Practice Rules this very year of asking for a HCP.

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Genetic assessment and monitoring of the stocks throughout the planning area should also be considered before any take permit is issued. The HCP is currently insufficient in documenting the genetic health and variability of the various populations of threatened salmonids.

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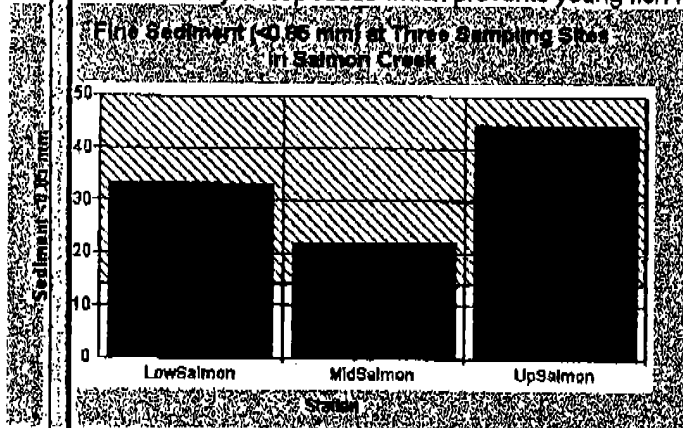
Adaptive Management

The "adaptive management" approach taken in the HCP is not sufficient to keep the Northern California/ Oregon coastal Evolutionarily Significant Unit of Coho Salmon from "jeopardy" of extinction as required by the California and Federal Endangered Species Acts. Some problems with the proposed management regime are as follows:

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1. The HCP proposes to start baseline adaptive management monitoring and reactive prescriptions to projects on lands that are already substantially damaged from past land uses. Every watershed on Palco lands is comprised of Class I and II watercourses with temperatures and sediment levels that are currently stressful or lethal to salmonids including the listed Coho ESU.

Data in KRIS Coho on fine sediment is from samples taken by PALCO and published in their Draft Habitat Conservation Plan. Data was not available in electronic form and was entered by hand for this project. Fine sediment can be very harmful to salmon, steelhead and coastal cutthroat trout because it can shut off the flow of oxygen to the nest or redd of these fish or seal the stream bed so that young fry cannot emerge. Sediment less than 0.85 mm is most likely to intrude into redds and to smother eggs or larvae (alevin). Sand-sized particles, less than 6.4 mm, are most likely to cap redds which prevents young fish from swimming up out of the gravel.

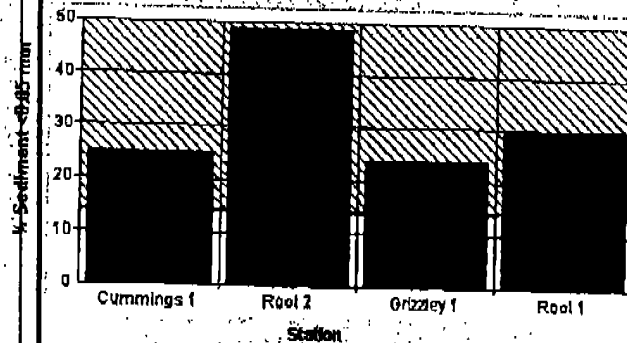


PALCO's monitoring stations in Salmon Creek show very high levels of fine sediment. Fine sediment less than 0.85 mm, which is shown above, is the most damaging to salmon, steelhead and coastal cutthroat trout because it can infiltrate into nests or redds and smother eggs or

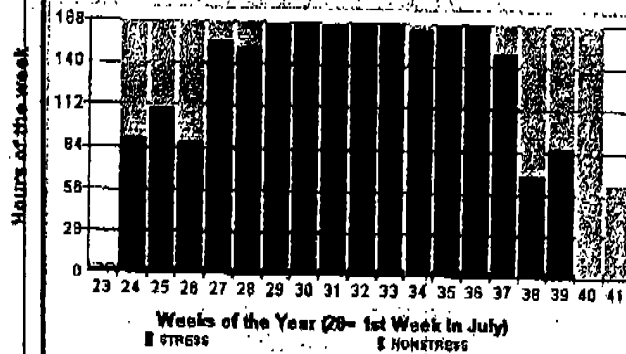
larvae. The reference level of 14% fine sediment less than 0.85 mm is taken from the U.S. EPA standard set for the Garcia River (Click on InfoLinks for more information). High levels of fines may be partly a result of sandstone lithology but extensive, recent timber harvest has also occurred in the Salmon Creek watershed area. There also appears to be a relationship between road densities and fine sediment at each station.

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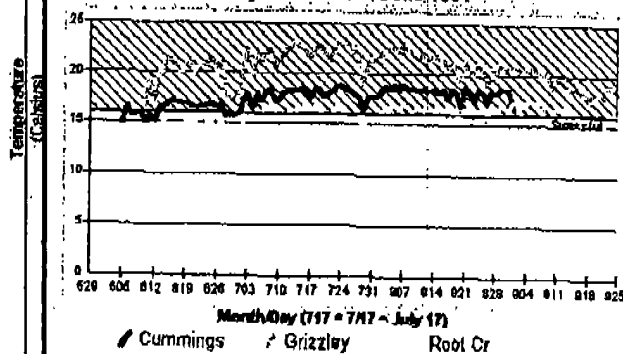
Sediment < 0.85 mm from Bulk Samples in Van
Duzen Tributaries on PALCO Lands

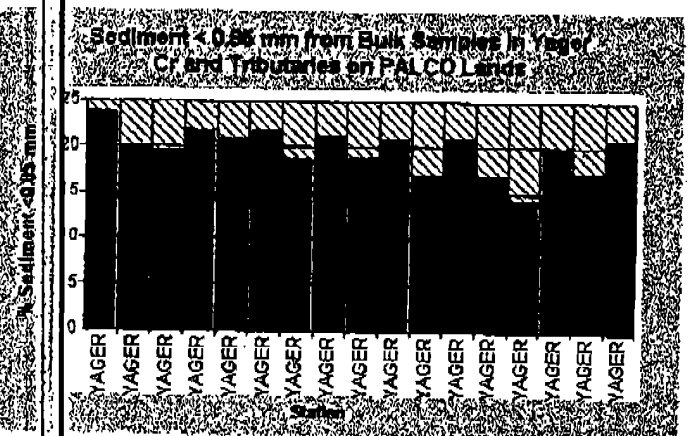
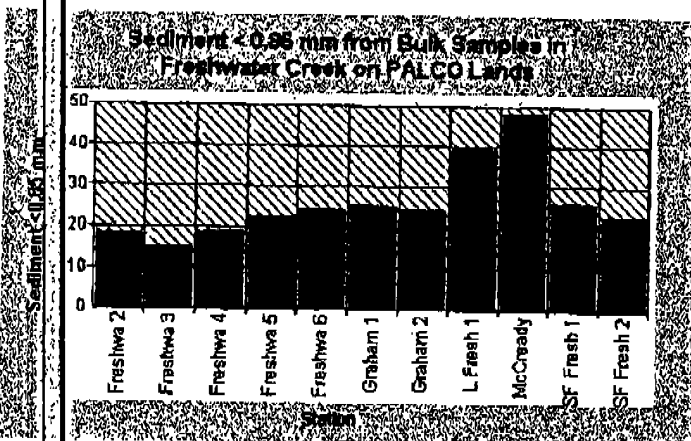
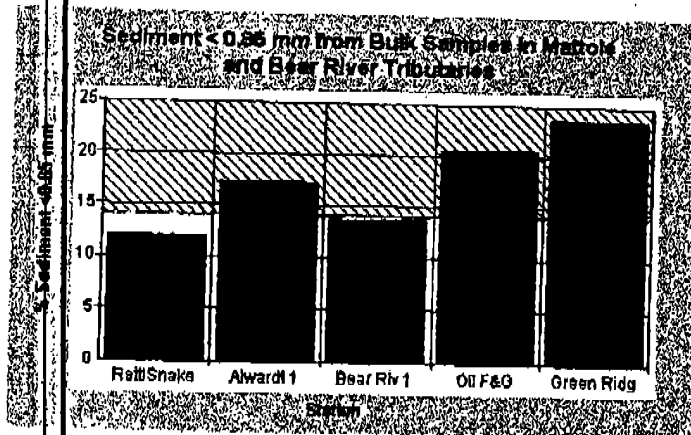


Temperature Stress for Coho Salmon (>16 C) in
Grizzley Creek in 1997



Maximum Daily Water Temperatures: Cummings,
Grizzley and Root Creeks 1997



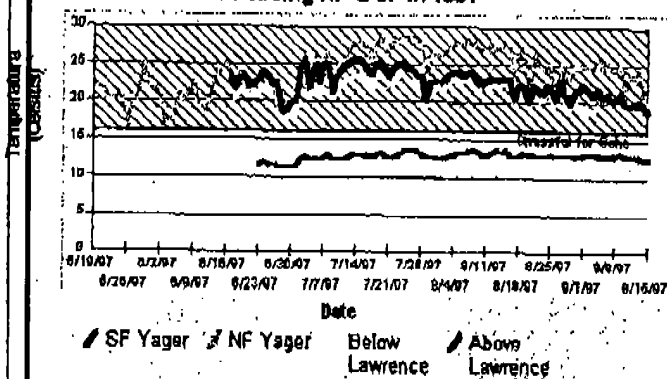


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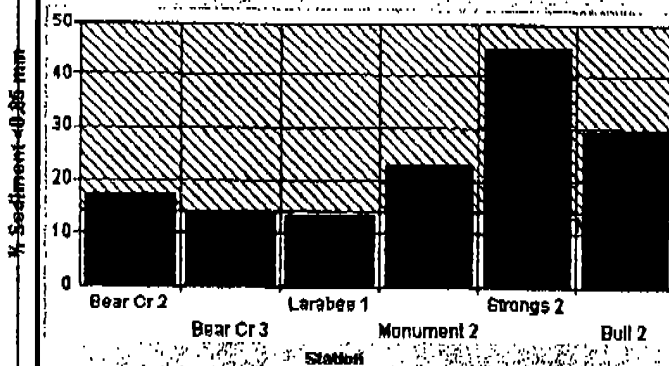
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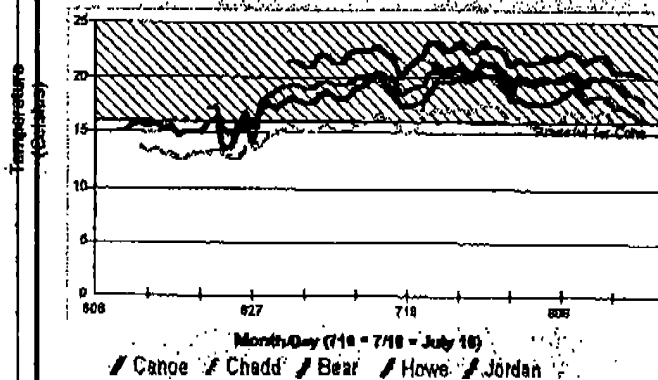
Maximum Daily Water Temperature of Yager Creek
Including NF & SF in 1997



Sediment < 0.85 mm from Bulk Samples in Eel
Tributaries on PALCO Lands



Maximum Daily Water Temperature of Various Lower
Eel Tributaries in 1996

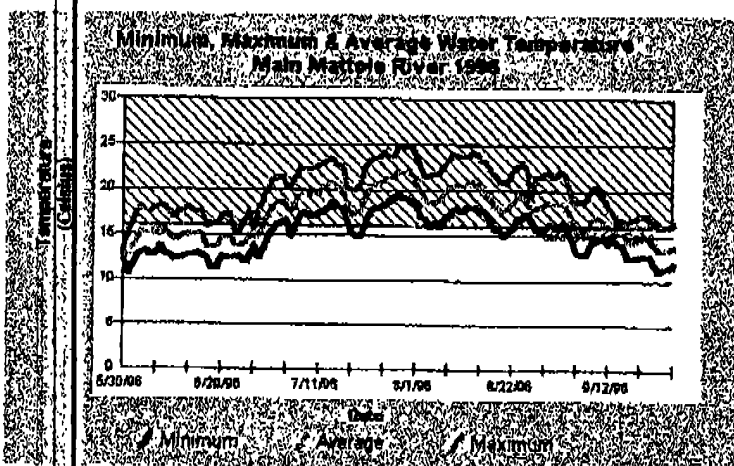
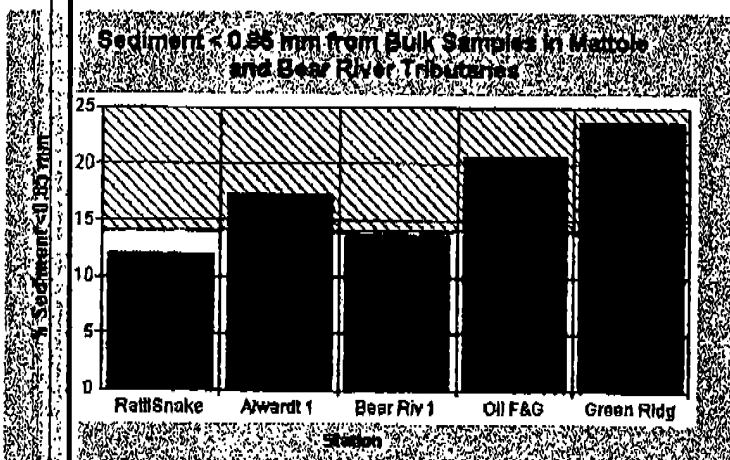
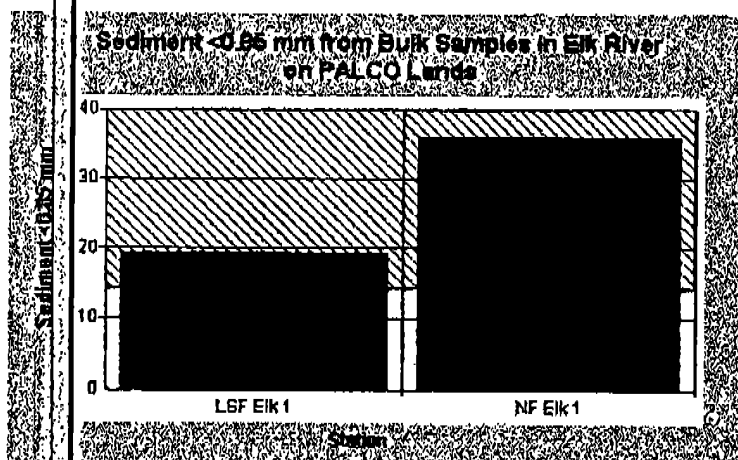


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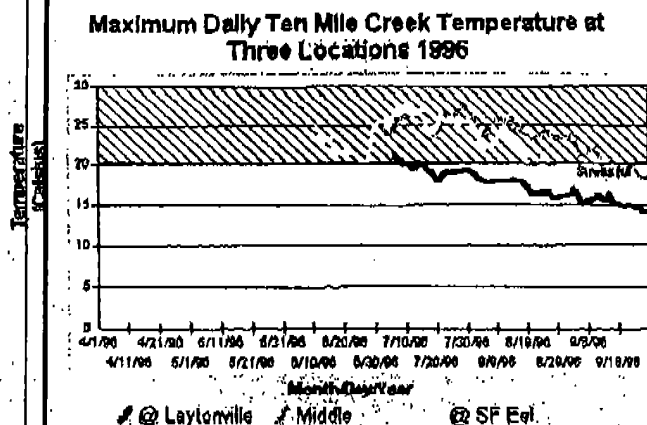
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The U.S. Forest Service Redwood Sciences Laboratory in Arcata has performed herpetofauna surveys for much of the Mattole River basin. As part of their project they have monitored stream temperatures and air temperatures in riparian zones. Water temperatures were monitored using automated temperature sensors (Hobotemps) which were placed in flowing water and in the shade.



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KRIS Coho contains hundreds of water temperature data sets for the Eel River basin as a result of an extensive water quality study conducted by the Humboldt County Resource Conservation District. The study used small, automated temperature sensing devices to measure stream temperatures at 150 locations in 1996 and 1997. Government agencies and some private companies, including PALCO, contributed data to this cooperative project. The Eel General sub-basin within KRIS Coho contains the Humboldt RCD study results and the reference for salmonid stress is 20 degrees Celsius. This conservative value was used in the study because steelhead have a higher temperature tolerance than coho salmon and are the most wide spread salmonid species in the Eel River.

2. The effectiveness of the proposed Adaptive Management prescriptions should be tested on a scale that is small enough, so that mistakes made and lessons learned can then be useful for application to the greater ownership. Because Palco's ownership encompasses a large portion of the remaining critical habitat for the endangered salmonids, it is irresponsible and illegal to allow such massive ecological experiments to take place in habitat that is already significantly impacted from current conditions; especially by a company who has shown such wanton disregard for regulations to protect species on the brink of extinction. The literature cited in the HCP does not cover watershed-wide prescriptions; therefore, the cumulative impact of the RMZ buffer management regime (although hypothetically may have an "insignificant" impact on an individual experiment scale) is untested on a watershed-wide basis.

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The HCP should contain an adaptive management plan that experiments with the proposed riparian protection plan on one watershed, as cumulative effects are assessed. Maximum protection (at least FEMAT recommended buffer zones with no clearcuts) and restoration efforts should be applied to the other watersheds (that Palco has already illegally damaged) in the interim. Once Palco can prove that it can keep watercourse temperature and sediment levels at acceptable levels in the experimental watershed, and prove that the restoration efforts are effective, only then should this regime be considered for application on other Palco watersheds.

This plan would not cause excessive economic harm to the company, because it would allow for the intensive harvest of the experimental watershed, and harvest of the of the ownership that is outside the FEMAT buffer zone.

Assessment of Roads and Associated Sediment Sources (1.2.1.1.)

The HCP should not allow new roads to be constructed in areas where old roads are not stormproofed, and TMDL's are already at stressful or lethal conditions to listed species.

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3. The HCP does not require PL to attain any goals set by the "properly functioning habitat" matrix. It instead allows PL to only "consider" these goals, and "strive" to attain them. We have

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The HCP must be changed so that PL is not left in charge of monitoring or performing the following activities:

- habitat inventories
- habitat enhancement projects
- electrofishing
- fish rearing
- watershed analysis
- assessment of roads and other sediment sources

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Watershed Analysis

The HCP plan for the watershed analysis is insufficient in timeframe and lacks any meaningful enforcement measures. With the prescribed rates of logging, most of the land will be cut before half of the watersheds are analyzed. There is no substantive reason why PL will go ahead with watershed analysis on schedule; the alternative (consequence) default prescription is lacking of any meaningful protections for the aquatic resources. Ironically, PL has more incentive to forgo the expensive watershed analysis in some watersheds, and opt to follow the excessively permissive Default Prescriptions, especially in areas that are already severely impacted by past land use activities.

The interim and default prescriptions should be on the safe side of the science for two reasons:

1) The watersheds are already known to be heavily impacted as sediment levels and water temperatures are stressful and lethal to listed salmonids. These species should not be put in "jeopardy" by questionable science. There is no room for risky experimentation anymore. Many of the wild spawning runs have already been extirpated by P.L. activities. Sediment has already filled up the creeks and many year round streams have gone dry. Clearcuts and other irresponsible logging regimes that decimate vegetative cover and cause reduced water absorption should not be allowed in the interim or default prescriptions. Buffer zones should approach FEMAT standards as watershed analysis is conducted. If the completed analysis and the responsible agencies concur that more liberal cuts could be made without "jeopardizing" the existence of listed species, only then should these prescriptions be allowed. 2) The safe side approach also gives Palco some kind of incentive to perform the watershed analysis in an expedient manner. The current HCP's default prescriptions do not sufficiently deter PL from slacking on or abandoning altogether their watershed analysis plan.

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Fish Rearing

"PL's HCP seeks authorization only for incidental take of listed species associated with the collection and rearing of non-listed species." (1.1.6. Fish Rearing) PL should not be breeding any fish that are not threatened with extinction. This take should be removed from the ITP entirely. Not only would granting this permission amount to an unknown loss of listed species, but would allow for PL to artificially increase fish populations that are in direct competition with the already struggling listed salmonids. PL should not be permitted this incidental take.

To simulate natural spawning mating, males and females that are mated together should be collected from the same spawning location, and not bred at random as the HCP calls for. Random mating will have a greater chance of breaking apart beneficial coadaptive gene complexes that begin to develop in local spawning populations.

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Buffer Zones

The effectiveness of the proposed buffer zone system is measured on any appreciable scale, and

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The effectiveness of the proposed buffer zone system is unproved on any appreciable scale, and should be thoroughly tested before being uniformly applied to an area as large as Palco's entire ownership.

Skid trails and roads should not be made within the RMZ's under any circumstances given current sediment levels on Palco's ownership. If cable yarding cannot be performed for any reason, no cut should be allowed in this area. As written, the Plan will allow skid trails from clearcut areas to approach within 30 and 10 feet of Class I and II watercourses respectively. This

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will create a pathway for the muddy runoff from the clearcut to travel right up to the watercourse unimpeded. The small Restrictive Harvest Band (RHB) will do little to stop the surface flow down skid trails from 40 acre clearcuts, especially on steep slopes.

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The mitigation measure for road segments within the RHB is insultingly insufficient, "Road segments within the RHB must be mitigated by extending the RHB on the opposite side of the watercourse from the existing road an equivalent distance of that portion of the road prism within the RHB." (1.2.2.2. Class I Stream Buffers) Mitigation measures are required to reduce the negative impact to the maximum extent practicable without causing significant economic harm (CEQA) The proposed mitigation does nothing to reduce the impact of the road, but only reduces the cumulative impact that activities of the other side of the watercourse may contribute to this significant impact.

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Best available science advises that only 25% of the canopy be removed per decade to ensure survival of salmonids. The HCP proposes to remove 40% of the conifer basal area within one single entry from the Limited Entry Band of Class I watercourses. Although this is less than the 50% removal rate per 20 years of the best science, the HCP proposed plan cuts 40% all at once, and will have a significant impact on the already impacted temperatures and sediment levels in all of the Class I watercourses on PL lands.

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Where is the science behind the assumption that Class II Selective Entry Band prescriptions will be sufficient mitigation for clearcuts on slopes over 50% that will occur adjacent to the RMZ ? (HCP, minimum default prescriptions for Class II waterways)

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Cumulative Impacts

The assessment of cumulative impacts is wholly insufficient because it does not exist in the Plan. It is not enough to merely state that cumulative impacts are too difficult to assess, and start with a new baseline for data collection. The riparian resource is already heavily impacted by PL land use. The HCP must be changed so that current, ongoing impacts are mitigated prior to the approval activities that will further degrade this public trust resource. It is the responsibility of the applicable agencies to ensure this provision by whatever means necessary.

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PALCO SYP/HCP • VOLUME II Fisheries and Watershed Assessment

1.2.1. Stream Habitat and Water Quality Analysis Methods

"Data on sediment size (percent <0.84 mm, percent <4.7 mm, D50), and water temperature were collected from monitoring stations on PL's ownership. For these data average values were determined for each WAA. However, temperature data from individual stations were also examined to determine where high water temperatures were present."

Why are average values used, when lethal highs are mixed in with stressful conditions and some cooler waters? This baseline data is insufficient to make informed decisions.

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" 1.2.1. Stream Habitat and Water Quality Analysis Methods Stream habitat results reported here focus on evaluation of overall conditions in each WAA. Consequently, data from specific areas within each WAA have been analyzed collectively at a broader, landscape level. This landscape level analysis is useful for: 1) determining conditions in WAAs, 2) making comparisons to conditions in other analysis units such as reference streams, 3) identifying regional or geographic patterns in the data, and 4) assessing whether WAAs with differing management histories show differences in stream conditions or fish populations. • Average values for each variable were ranked such that the WAA with the best average value received a rank of 1, second best a rank of 2, etc. • Values for each variable in each WAA were compared

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to criteria for good and poor habitat conditions. These criteria were developed by PL and R2 using published studies, discussions with regulatory staff, and professional judgment.

It is only useful to develop an internal ranking system for prioritization of projects being considered on the ownership. The ranking should be against healthy watersheds to get a meaningful idea of current conditions. Why rank against each other when all watersheds are already illegally harming listed species?

SIGNED

[Signature]

DANIEL KOSMAL

THESE COMMENTS^{ALSO} ARE SUBMITTED
IN THE NAME OF THE FOLLOWING
ORGANIZATIONS FOR THE PURPOSE
OF LEGAL STANDING.

- 1) ENVIRONMENTAL PROTECTION + INFORMATION CENTER
EPIC
- 2) MATTOLE RESTORATION COUNCIL
MRC
- 3) MATTOLE SALMON GROUP
MSG
- 4) CALIFORNIA PUBLIC INTEREST RESEARCH GROUP
CAL PIRG

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